

**30-1-17.2 Action to determine validity of marriage -- Orders relating to parties, property, and children -- Presumption of paternity in marriage.**

- (1) If the parties have accumulated any property or acquired any obligations subsequent to the marriage, if there is a genuine need arising from an economic change of circumstances due to the marriage, or if there are children born or expected, the court may make temporary and final orders, and subsequently modify the orders, relating to the parties, their property and obligations, the children and their custody and parent-time, and the support and maintenance of the parties and children, as may be equitable.
- (2) A man is presumed to be the father of a child if:
  - (a) he and the mother of the child are married to each other and the child is born during the marriage;
  - (b) he and the mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation;
  - (c) before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is, or could be, declared invalid and the child is born during the invalid marriage or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce, or after a decree of separation; or
  - (d) after the birth of the child, he and the mother of the child have married each other in apparent compliance with law, whether or not the marriage is, or could be declared, invalid, he voluntarily asserted his paternity of the child, and there is no other presumptive father of the child, and:
    - (i) the assertion is in a record filed with the state registrar;
    - (ii) he agreed to be and is named as the child's father on the child's birth certificate; or
    - (iii) he promised in a record to support the child as his own.
- (3) If the child was born at the time of entry of a divorce decree, other children are named as children of the marriage, but that child is specifically not named, the husband is not presumed to be the father of the child not named in the order.
- (4) A presumption of paternity established under this section may only be rebutted in accordance with Section 78B-15-607.
- (5) A final order or decree issued by a tribunal in which paternity is adjudicated may not be set aside unless the court finds that one of the parties perpetrated a fraud in the establishment of the paternity and another party did not know or could not reasonably have known of the fraud at the time of the entry of the order. The party who committed the fraud may not bring the action.

Amended by Chapter 3, 2008 General Session